

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 213 Session of 2009

INTRODUCED BY ROBBINS, BAKER, PILEGGI, MELLOW, BOSCOLA, BROWNE, BRUBAKER, COSTA, EARLL, ERICKSON, FERLO, FONTANA, GREENLEAF, LOGAN, O'PAKE, ORIE, PIPPY, RAFFERTY, STACK, TARTAGLIONE, TOMLINSON, WAUGH, D. WHITE, M. WHITE, WILLIAMS, WOZNIAK AND FOLMER, FEBRUARY 19, 2009

REFERRED TO EDUCATION, FEBRUARY 19, 2009

AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the  
2 Interstate Compact on Educational Opportunity for Military  
3 Children; providing for the form of the compact; imposing  
4 additional powers and duties on the Governor, the Secretary  
5 of the Commonwealth and the compact administrator; and  
6 establishing the State Council on Interstate Educational  
7 Opportunity for Military Children.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Interstate  
12 Compact on Educational Opportunity for Military Children Act.

13 Section 2. Authority to execute compact.

14 The Governor of Pennsylvania, on behalf of this State, is  
15 hereby authorized to execute a compact in substantially the  
16 following form with any one or more of the states of the United  
17 States, and the General Assembly hereby signifies in advance its  
18 approval and ratification of such compact:

19 Interstate Compact on Educational Opportunity

for Military Children

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.
- C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.
- D. Facilitating the on-time graduation of children of military families.
- E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.
- F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.
- G. Promoting coordination between this compact and other compacts affecting military children.
- H. Promoting flexibility and cooperation between the

educational system, parents and the student in order to  
achieve educational success for the student.

## ARTICLE II

### DEFINITIONS

As used in this compact, unless the context clearly requires a  
different construction:

- A. "Active duty" means: full-time duty status in the active  
uniformed service of the United States, including members  
of the National Guard and Reserve on active duty orders  
pursuant to 10 U.S.C. Section 1209 and 1211.
- B. "Children of military families" means: a school-aged  
child(ren), enrolled in Kindergarten through Twelfth  
(12th) grade, in the household of an active duty member.
- C. "Compact commissioner" means: the voting representative  
of each compacting state appointed pursuant to Article  
VIII of this compact.
- D. "Deployment" means: the period one (1) month prior to the  
service members' departure from their home station on  
military orders through six (6) months after return to  
their home station.
- E. "Education(al) records" means: those official records,  
files, and data directly related to a student and  
maintained by the school or local education agency,  
including but not limited to records encompassing all the  
material kept in the student's cumulative folder such as  
general identifying data, records of attendance and of  
academic work completed, records of achievement and  
results of evaluative tests, health data, disciplinary  
status, test protocols, and individualized education  
programs.

1 F. "Extracurricular activities" means: a voluntary activity  
2 sponsored by the school or local education agency or an  
3 organization sanctioned by the local education agency.  
4 Extracurricular activities include, but are not limited  
5 to, preparation for and involvement in public  
6 performances, contests, athletic competitions,  
7 demonstrations, displays, and club activities.

8 G. "Interstate Commission on Educational Opportunity for  
9 Military Children" means: the commission that is created  
10 under Article IX of this compact, which is generally  
11 referred to as Interstate Commission.

12 H. "Local education agency" means: a public authority  
13 legally constituted by the state as an administrative  
14 agency to provide control of and direction for  
15 Kindergarten through Twelfth (12th) grade public  
16 educational institutions.

17 I. "Member state" means: a state that has enacted this  
18 compact.

19 J. "Military installation" means: a base, camp, post,  
20 station, yard, center, homeport facility for any ship, or  
21 other activity under the jurisdiction of the Department  
22 of Defense, including any leased facility, which is  
23 located within any of the several States, the District of  
24 Columbia, the Commonwealth of Puerto Rico, the U.S.  
25 Virgin Islands, Guam, American Samoa, the Northern  
26 Marianas Islands and any other U.S. Territory. Such term  
27 does not include any facility used primarily for civil  
28 works, rivers and harbors projects, or flood control  
29 projects.

30 K. "Non-member state" means: a state that has not enacted

1           this compact.

2       L.   "Receiving state" means: the state to which a child of a  
3           military family is sent, brought, or caused to be sent or  
4           brought.

5       M.   "Rule" means: a written statement by the Interstate  
6           Commission promulgated pursuant to Article XII of this  
7           compact that is of general applicability, implements,  
8           interprets or prescribes a policy or provision of the  
9           compact, or an organizational, procedural, or practice  
10          requirement of the Interstate Commission, and has the  
11          force and effect of statutory law in a member state, and  
12          includes the amendment, repeal, or suspension of an  
13          existing rule.

14       N.   "Sending state" means: the state from which a child of a  
15           military family is sent, brought, or caused to be sent or  
16           brought.

17       O.   "State" means: a state of the United States, the District  
18           of Columbia, the Commonwealth of Puerto Rico, the U.S.  
19           Virgin Islands, Guam, American Samoa, the Northern  
20           Marianas Islands and any other U.S. Territory.

21       P.   "Student" means: the child of a military family for whom  
22           the local education agency receives public funding and  
23           who is formally enrolled in Kindergarten through Twelfth  
24           (12th) grade.

25       Q.   "Transition" means: 1) the formal and physical process of  
26           transferring from school to school or 2) the period of  
27           time in which a student moves from one school in the  
28           sending state to another school in the receiving state.

29       R.   "Uniformed service(s)" means: the Army, Navy, Air Force,  
30           Marine Corps, Coast Guard as well as the Commissioned

Corps of the National Oceanic and Atmospheric  
Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed  
services and who was discharged or released therefrom  
under conditions other than dishonorable.

### ARTICLE III

#### APPLICABILITY

A. Except as otherwise provided in Section B, this compact  
shall apply to the children of:

1. active duty members of the uniformed services as  
defined in this compact, including members of the  
National Guard and Reserve on active duty orders  
pursuant to 10 U.S.C. Section 1209 and 1211;
2. members or veterans of the uniformed services who  
are severely injured and medically discharged or  
retired for a period of one (1) year after  
medical discharge or retirement; and
3. members of the uniformed services who die on  
active duty or as a result of injuries sustained  
on active duty for a period of one (1) year after  
death.

B. The provisions of this interstate compact shall only  
apply to local education agencies as defined in this  
compact.

C. The provisions of this compact shall not apply to the  
children of:

1. inactive members of the national guard and  
military reserves;
2. members of the uniformed services now retired,  
except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and
4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV

##### EDUCATIONAL RECORDS & ENROLLMENT

- A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- B. Official education records/transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated

1 by the Interstate Commission.

2 C. Immunizations - Compacting states shall give thirty (30)  
3 days from the date of enrollment or within such time as  
4 is reasonably determined under the rules promulgated by  
5 the Interstate Commission, for students to obtain any  
6 immunization(s) required by the receiving state. For a  
7 series of immunizations, initial vaccinations must be  
8 obtained within thirty (30) days or within such time as  
9 is reasonably determined under the rules promulgated by  
10 the Interstate Commission.

11 D. Kindergarten and First grade entrance age - Students  
12 shall be allowed to continue their enrollment at grade  
13 level in the receiving state commensurate with their  
14 grade level (including Kindergarten) from a local  
15 education agency in the sending state at the time of  
16 transition, regardless of age. A student that has  
17 satisfactorily completed the prerequisite grade level in  
18 the local education agency in the sending state shall be  
19 eligible for enrollment in the next highest grade level  
20 in the receiving state, regardless of age. A student  
21 transferring after the start of the school year in the  
22 receiving state shall enter the school in the receiving  
23 state on their validated level from an accredited school  
24 in the sending state.

25 ARTICLE V

26 PLACEMENT & ATTENDANCE

27 A. Course placement - When the student transfers before or  
28 during the school year, the receiving state school shall  
29 initially honor placement of the student in educational  
30 courses based on the student's enrollment in the sending



1 state school and/or educational assessments conducted at  
2 the school in the sending state if the courses are  
3 offered. Course placement includes but is not limited to  
4 Honors, International Baccalaureate, Advanced Placement,  
5 vocational, technical and career pathways courses.  
6 Continuing the student's academic program from the  
7 previous school and promoting placement in academically  
8 and career challenging courses should be paramount when  
9 considering placement. This does not preclude the school  
10 in the receiving state from performing subsequent  
11 evaluations to ensure appropriate placement and continued  
12 enrollment of the student in the course(s).

13 B. Educational program placement - The receiving state  
14 school shall initially honor placement of the student in  
15 educational programs based on current educational  
16 assessments conducted at the school in the sending state  
17 or participation/placement in like programs in the  
18 sending state. Such programs include, but are not limited  
19 to: 1) gifted and talented programs; and 2) English as a  
20 second language (ESL). This does not preclude the school  
21 in the receiving state from performing subsequent  
22 evaluations to ensure appropriate placement of the  
23 student.

24 C. Special education services - 1) In compliance with the  
25 federal requirements of the Individuals with Disabilities  
26 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq,  
27 the receiving state shall initially provide comparable  
28 services to a student with disabilities based on his/her  
29 current Individualized Education Program (IEP); and 2) In  
30 compliance with the requirements of Section 504 of the

1 Rehabilitation Act, 29 U.S.C.A. Section 794, and with  
2 Title II of the Americans with Disabilities Act, 42  
3 U.S.C.A. Sections 12131-12165, the receiving state shall  
4 make reasonable accommodations and modifications to  
5 address the needs of incoming students with disabilities,  
6 subject to an existing 504 or Title II Plan, to provide  
7 the student with equal access to education. This does not  
8 preclude the school in the receiving state from  
9 performing subsequent evaluations to ensure appropriate  
10 placement of the student.

11 D. Placement flexibility - Local education agency  
12 administrative officials shall have flexibility in  
13 waiving course/program prerequisites, or other  
14 preconditions for placement in courses/programs offered  
15 under the jurisdiction of the local education agency.

16 E. Absence as related to deployment activities - A student  
17 whose parent or legal guardian is an active duty member  
18 of the uniformed services, as defined by the compact, and  
19 has been called to duty for, is on leave from, or  
20 immediately returned from deployment to a combat zone or  
21 combat support posting, shall be granted additional  
22 excused absences at the discretion of the local education  
23 agency superintendent to visit with his or her parent or  
24 legal guardian relative to such leave or deployment of  
25 the parent or guardian.

## 26 ARTICLE VI

### 27 ELIGIBILITY

28 A. Eligibility for enrollment

- 29 1. Special power of attorney, relative to the  
30 guardianship of a child of a military family and

1           executed under applicable law shall be sufficient  
2           for the purposes of enrollment and all other  
3           actions requiring parental participation and  
4           consent.

5           2.   A local education agency shall be prohibited from  
6           charging local tuition to a transitioning  
7           military child placed in the care of a non-  
8           custodial parent or other person standing in loco  
9           parentis who lives in a jurisdiction other than  
10          that of the custodial parent.

11          3.   A transitioning military child, placed in the  
12          care of a non-custodial parent or other person  
13          standing in loco parentis who lives in a  
14          jurisdiction other than that of the custodial  
15          parent, may continue to attend the school in  
16          which he/she was enrolled while residing with the  
17          custodial parent.

18    B.   Eligibility for extracurricular participation - State and  
19          local education agencies shall facilitate the opportunity  
20          for transitioning military children's inclusion in  
21          extracurricular activities, regardless of application  
22          deadlines, to the extent they are otherwise qualified.

## 23                                   ARTICLE VII

### 24                                   GRADUATION

25   In order to facilitate the on-time graduation of children of  
26   military families states and local education agencies shall  
27   incorporate the following procedures:

28    A.   Waiver requirements - Local education agency  
29          administrative officials shall waive specific courses  
30          required for graduation if similar course work has been

1           satisfactorily completed in another local education  
2           agency or shall provide reasonable justification for  
3           denial. Should a waiver not be granted to a student who  
4           would qualify to graduate from the sending school, the  
5           local education agency shall provide an alternative means  
6           of acquiring required coursework so that graduation may  
7           occur on time.

8       B.   Exit exams - States shall accept: 1) exit or end-of-  
9           course exams required for graduation from the sending  
10          state; or 2) national norm-referenced achievement tests  
11          or 3) alternative testing, in lieu of testing  
12          requirements for graduation in the receiving state. In  
13          the event the above alternatives cannot be accommodated  
14          by the receiving state for a student transferring in his  
15          or her Senior year, then the provisions of Article VII,  
16          Section C shall apply.

17       C.   Transfers during Senior year - Should a military student  
18           transferring at the beginning or during his or her Senior  
19           year be ineligible to graduate from the receiving local  
20           education agency after all alternatives have been  
21           considered, the sending and receiving local education  
22           agencies shall ensure the receipt of a diploma from the  
23           sending local education agency, if the student meets the  
24           graduation requirements of the sending local education  
25           agency. In the event that one of the states in question  
26           is not a member of this compact, the member state shall  
27           use best efforts to facilitate the on-time graduation of  
28           the student in accordance with Sections A and B of this  
29           Article.

30                                   ARTICLE VIII

STATE COORDINATION

- A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.
- B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
- C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.
- D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a

1 full voting member of the State Council.

2 ARTICLE IX

3 INTERSTATE COMMISSION ON EDUCATIONAL

4 OPPORTUNITY FOR MILITARY CHILDREN

5 The member states hereby create the "Interstate Commission on  
6 Educational Opportunity for Military Children." The activities  
7 of the Interstate Commission are the formation of public policy  
8 and are a discretionary state function. The Interstate  
9 Commission shall:

10 A. Be a body corporate and joint agency of the member states  
11 and shall have all the responsibilities, powers and  
12 duties set forth herein, and such additional powers as  
13 may be conferred upon it by a subsequent concurrent  
14 action of the respective legislatures of the member  
15 states in accordance with the terms of this compact.

16 B. Consist of one Interstate Commission voting  
17 representative from each member state who shall be that  
18 state's compact commissioner.

19 1. Each member state represented at a meeting of the  
20 Interstate Commission is entitled to one vote.

21 2. A majority of the total member states shall  
22 constitute a quorum for the transaction of  
23 business, unless a larger quorum is required by  
24 the bylaws of the Interstate Commission.

25 3. A representative shall not delegate a vote to  
26 another member state. In the event the compact  
27 commissioner is unable to attend a meeting of the  
28 Interstate Commission, the Governor or State  
29 Council may delegate voting authority to another  
30 person from their state for a specified meeting.

1           4. The bylaws may provide for meetings of the  
2           Interstate Commission to be conducted by  
3           telecommunication or electronic communication.

4       C. Consist of ex-officio, non-voting representatives who are  
5       members of interested organizations. Such ex-officio  
6       members, as defined in the bylaws, may include but not be  
7       limited to, members of the representative organizations  
8       of military family advocates, local education agency  
9       officials, parent and teacher groups, the U.S. Department  
10      of Defense, the Education Commission of the States, the  
11      Interstate Agreement on the Qualification of Educational  
12      Personnel and other interstate compacts affecting the  
13      education of children of military members.

14     D. Meet at least once each calendar year. The chairperson  
15     may call additional meetings and, upon the request of a  
16     simple majority of the member states, shall call  
17     additional meetings.

18     E. Establish an executive committee, whose members shall  
19     include the officers of the Interstate Commission and  
20     such other members of the Interstate Commission as  
21     determined by the bylaws. Members of the executive  
22     committee shall serve a one year term. Members of the  
23     executive committee shall be entitled to one vote each.  
24     The executive committee shall have the power to act on  
25     behalf of the Interstate Commission, with the exception  
26     of rulemaking, during periods when the Interstate  
27     Commission is not in session. The executive committee  
28     shall oversee the day-to-day activities of the  
29     administration of the compact including enforcement and  
30     compliance with the provisions of the compact, its bylaws

1 and rules, and other such duties as deemed necessary. The  
2 U.S. Dept. of Defense shall serve as an ex-officio,  
3 nonvoting member of the executive committee.

4 F. Establish bylaws and rules that provide for conditions  
5 and procedures under which the Interstate Commission  
6 shall make its information and official records available  
7 to the public for inspection or copying. The Interstate  
8 Commission may exempt from disclosure information or  
9 official records to the extent they would adversely  
10 affect personal privacy rights or proprietary interests.

11 G. Public notice shall be given by the Interstate Commission  
12 of all meetings and all meetings shall be open to the  
13 public, except as set forth in the rules or as otherwise  
14 provided in the compact. The Interstate Commission and  
15 its committees may close a meeting, or portion thereof,  
16 where it determines by two-thirds vote that an open  
17 meeting would be likely to:

- 18 1. Relate solely to the Interstate Commission's  
19 internal personnel practices and procedures;
- 20 2. Disclose matters specifically exempted from  
21 disclosure by federal and state statute;
- 22 3. Disclose trade secrets or commercial or financial  
23 information which is privileged or confidential;
- 24 4. Involve accusing a person of a crime, or formally  
25 censuring a person;
- 26 5. Disclose information of a personal nature where  
27 disclosure would constitute a clearly unwarranted  
28 invasion of personal privacy;
- 29 6. Disclose investigative records compiled for law  
30 enforcement purposes; or



1           7. Specifically relate to the Interstate  
2           Commission's participation in a civil action or  
3           other legal proceeding.

4       H. For a meeting, or portion of a meeting, closed pursuant  
5       to this provision, the Interstate Commission's legal  
6       counsel or designee shall certify that the meeting may be  
7       closed and shall reference each relevant exemptible  
8       provision. The Interstate Commission shall keep minutes  
9       which shall fully and clearly describe all matters  
10      discussed in a meeting and shall provide a full and  
11      accurate summary of actions taken, and the reasons  
12      therefore, including a description of the views expressed  
13      and the record of a roll call vote. All documents  
14      considered in connection with an action shall be  
15      identified in such minutes. All minutes and documents of  
16      a closed meeting shall remain under seal, subject to  
17      release by a majority vote of the Interstate Commission.

18      I. The Interstate Commission shall collect standardized data  
19      concerning the educational transition of the children of  
20      military families under this compact as directed through  
21      its rules which shall specify the data to be collected,  
22      the means of collection and data exchange and reporting  
23      requirements. Such methods of data collection, exchange  
24      and reporting shall, in so far as is reasonably possible,  
25      conform to current technology and coordinate its  
26      information functions with the appropriate custodian of  
27      records as identified in the bylaws and rules.

28      J. The Interstate Commission shall create a process that  
29      permits military officials, education officials and  
30      parents to inform the Interstate Commission if and when

1       there are alleged violations of the compact or its rules  
2       or when issues subject to the jurisdiction of the compact  
3       or its rules are not addressed by the state or local  
4       education agency. This section shall not be construed to  
5       create a private right of action against the Interstate  
6       Commission or any member state.

7                               ARTICLE X

8               POWERS AND DUTIES OF THE INTERSTATE COMMISSION

9   The Interstate Commission shall have the following powers:

- 10    A.   To provide for dispute resolution among member states.
- 11    B.   To promulgate rules and take necessary actions to effect  
12       the goals, purposes and obligations as enumerated in this  
13       compact. The rules shall have the force and effect of  
14       statutory law and shall be binding in the compact states  
15       to the extent and in the manner provided in this compact.
- 16    C.   To issue, upon request of a member state, advisory  
17       opinions concerning the meaning or interpretation of the  
18       interstate compact, its bylaws, rules and actions.
- 19    D.   To enforce compliance with the compact provisions, the  
20       rules promulgated by the Interstate Commission, and the  
21       bylaws, using all necessary and proper means, including  
22       but not limited to the use of judicial process.
- 23    E.   To establish and maintain offices which shall be located  
24       within one or more of the member states.
- 25    F.   To purchase and maintain insurance and bonds.
- 26    G.   To borrow, accept, hire or contract for services of  
27       personnel.
- 28    H.   To establish and appoint committees including, but not  
29       limited to, an executive committee as required by Article  
30       IX, Section E, which shall have the power to act on

1       behalf of the Interstate Commission in carrying out its  
2       powers and duties hereunder.

3       I.   To elect or appoint such officers, attorneys, employees,  
4       agents, or consultants, and to fix their compensation,  
5       define their duties and determine their qualifications;  
6       and to establish the Interstate Commission's personnel  
7       policies and programs relating to conflicts of interest,  
8       rates of compensation, and qualifications of personnel.

9       J.   To accept any and all donations and grants of money,  
10      equipment, supplies, materials, and services, and to  
11      receive, utilize, and dispose of it.

12      K.   To lease, purchase, accept contributions or donations of,  
13      or otherwise to own, hold, improve or use any property,  
14      real, personal, or mixed.

15      L.   To sell, convey, mortgage, pledge, lease, exchange,  
16      abandon, or otherwise dispose of any property, real,  
17      personal or mixed.

18      M.   To establish a budget and make expenditures.

19      N.   To adopt a seal and bylaws governing the management and  
20      operation of the Interstate Commission.

21      O.   To report annually to the legislatures, governors,  
22      judiciary, and state councils of the member states  
23      concerning the activities of the Interstate Commission  
24      during the preceding year. Such reports shall also  
25      include any recommendations that may have been adopted by  
26      the Interstate Commission.

27      P.   To coordinate education, training and public awareness  
28      regarding the compact, its implementation and operation  
29      for officials and parents involved in such activity.

30      Q.   To establish uniform standards for the reporting,

collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

#### ARTICLE XI

#### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate

Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate

Commission;

- b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
- c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

2. (Reserved).

3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that

1 occurred, or that such person had a reasonable basis for  
2 believing occurred, within the scope of Interstate  
3 Commission employment, duties, or responsibilities;  
4 provided, that such person shall not be protected from  
5 suit or liability for damage, loss, injury, or liability  
6 caused by the intentional or willful and wanton  
7 misconduct of such person.

8 1. The liability of the Interstate Commission's  
9 executive director and employees or Interstate  
10 Commission representatives, acting within the  
11 scope of such person's employment or duties for  
12 acts, errors, or omissions occurring within such  
13 person's state may not exceed the limits of  
14 liability set forth under the Constitution and  
15 laws of that state for state officials,  
16 employees, and agents. The Interstate Commission  
17 is considered to be an instrumentality of the  
18 states for the purposes of any such action.

19 Nothing in this subsection shall be construed to  
20 protect such person from suit or liability for  
21 damage, loss, injury, or liability caused by the  
22 intentional or willful and wanton misconduct of  
23 such person.

24 2. The Interstate Commission shall defend the  
25 executive director and its employees and, subject  
26 to the approval of the Attorney General or other  
27 appropriate legal counsel of the member state  
28 represented by an Interstate Commission  
29 representative, shall defend such Interstate  
30 Commission representative in any civil action

1 seeking to impose liability arising out of an  
2 actual or alleged act, error or omission that  
3 occurred within the scope of Interstate  
4 Commission employment, duties or  
5 responsibilities, or that the defendant had a  
6 reasonable basis for believing occurred within  
7 the scope of Interstate Commission employment,  
8 duties, or responsibilities, provided that the  
9 actual or alleged act, error, or omission did not  
10 result from intentional or willful and wanton  
11 misconduct on the part of such person.

12 3. To the extent not covered by the state involved,  
13 member state, or the Interstate Commission, the  
14 representatives or employees of the Interstate  
15 Commission shall be held harmless in the amount  
16 of a settlement or judgment, including attorney's  
17 fees and costs, obtained against such persons  
18 arising out of an actual or alleged act, error,  
19 or omission that occurred within the scope of  
20 Interstate Commission employment, duties, or  
21 responsibilities, or that such persons had a  
22 reasonable basis for believing occurred within  
23 the scope of Interstate Commission employment,  
24 duties, or responsibilities, provided that the  
25 actual or alleged act, error, or omission did not  
26 result from intentional or willful and wanton  
27 misconduct on the part of such persons.

## 28 ARTICLE XII

### 29 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

30 A. Rulemaking Authority - The Interstate Commission shall



1 promulgate reasonable rules in order to effectively and  
2 efficiently achieve the purposes of this compact.

3 Notwithstanding the foregoing, in the event the  
4 Interstate Commission exercises its rulemaking authority  
5 in a manner that is beyond the scope of the purposes of  
6 this Act, or the powers granted hereunder, then such an  
7 action by the Interstate Commission shall be invalid and  
8 have no force or effect.

9 B. Rulemaking Procedure - Rules shall be made pursuant to a  
10 rulemaking process that substantially conforms to the  
11 "Model State Administrative Procedure Act," of 1981 Act,  
12 Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended,  
13 as may be appropriate to the operations of the Interstate  
14 Commission.

15 C. Not later than thirty (30) days after a rule is  
16 promulgated, any person may file a petition for judicial  
17 review of the rule; provided, that the filing of such a  
18 petition shall not stay or otherwise prevent the rule  
19 from becoming effective unless the court finds that the  
20 petitioner has a substantial likelihood of success. The  
21 court shall give deference to the actions of the  
22 Interstate Commission consistent with applicable law and  
23 shall not find the rule to be unlawful if the rule  
24 represents a reasonable exercise of the Interstate  
25 Commission's authority.

26 D. If a majority of the legislatures of the compacting  
27 states rejects a Rule by enactment of a statute or  
28 resolution in the same manner used to adopt the compact,  
29 then such rule shall have no further force and effect in  
30 any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination

- If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state

1 and other member states, of the nature of the  
2 default, the means of curing the default and any  
3 action taken by the Interstate Commission. The  
4 Interstate Commission shall specify the  
5 conditions by which the defaulting state must  
6 cure its default.

7 2. Provide remedial training and specific technical  
8 assistance regarding the default.

9 3. If the defaulting state fails to cure the  
10 default, the defaulting state shall be terminated  
11 from the compact upon an affirmative vote of a  
12 majority of the member states and all rights,  
13 privileges and benefits conferred by this compact  
14 shall be terminated from the effective date of  
15 termination. A cure of the default does not  
16 relieve the offending state of obligations or  
17 liabilities incurred during the period of the  
18 default.

19 4. Suspension or termination of membership in the  
20 compact shall be imposed only after all other  
21 means of securing compliance have been exhausted.  
22 Notice of intent to suspend or terminate shall be  
23 given by the Interstate Commission to the  
24 Governor, the majority and minority leaders of  
25 the defaulting state's legislature, and each of  
26 the member states.

27 5. The state which has been suspended or terminated  
28 is responsible for all assessments, obligations  
29 and liabilities incurred through the effective  
30 date of suspension or termination including

obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

#### C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

1           2.   The Interstate Commission may, by majority vote  
2               of the members, initiate legal action in the  
3               United States District Court for the District of  
4               Columbia or, at the discretion of the Interstate  
5               Commission, in the federal district where the  
6               Interstate Commission has its principal offices,  
7               to enforce compliance with the provisions of the  
8               compact, its promulgated rules and bylaws,  
9               against a member state in default. The relief  
10              sought may include both injunctive relief and  
11              damages. In the event judicial enforcement is  
12              necessary the prevailing party shall be awarded  
13              all costs of such litigation including reasonable  
14              attorney's fees.

15           3.   The remedies herein shall not be the exclusive  
16               remedies of the Interstate Commission. The  
17               Interstate Commission may avail itself of any  
18               other remedies available under state law or the  
19               regulation of a profession.

#### 20                               ARTICLE XIV

#### 21                               FINANCING OF THE INTERSTATE COMMISSION

22       A.   The Interstate Commission shall pay, or provide for the  
23              payment of the reasonable expenses of its establishment,  
24              organization and ongoing activities.

25       B.   The Interstate Commission may levy on and collect an  
26              annual assessment from each member state to cover the  
27              cost of the operations and activities of the Interstate  
28              Commission and its staff which must be in a total amount  
29              sufficient to cover the Interstate Commission's annual  
30              budget as approved each year. The aggregate annual

1 assessment amount shall be allocated based upon a formula  
2 to be determined by the Interstate Commission, which  
3 shall promulgate a rule binding upon all member states.

4 C. The Interstate Commission shall not incur obligations of  
5 any kind prior to securing the funds adequate to meet the  
6 same; nor shall the Interstate Commission pledge the  
7 credit of any of the member states, except by and with  
8 the authority of the member state.

9 D. The Interstate Commission shall keep accurate accounts of  
10 all receipts and disbursements. The receipts and  
11 disbursements of the Interstate Commission shall be  
12 subject to the audit and accounting procedures  
13 established under its bylaws. However, all receipts and  
14 disbursements of funds handled by the Interstate  
15 Commission shall be audited yearly by a certified or  
16 licensed public accountant and the report of the audit  
17 shall be included in and become part of the annual report  
18 of the Interstate Commission.

19 ARTICLE XV

20 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

21 A. Any state is eligible to become a member state.

22 B. The compact shall become effective and binding upon  
23 legislative enactment of the compact into law by no less  
24 than ten (10) of the states. The effective date shall be  
25 no earlier than December 1, 2007. Thereafter it shall  
26 become effective and binding as to any other member state  
27 upon enactment of the compact into law by that state. The  
28 governors of non-member states or their designees shall  
29 be invited to participate in the activities of the  
30 Interstate Commission on a non-voting basis prior to

1 adoption of the compact by all states.

2 C. The Interstate Commission may propose amendments to the  
3 compact for enactment by the member states. No amendment  
4 shall become effective and binding upon the Interstate  
5 Commission and the member states unless and until it is  
6 enacted into law by unanimous consent of the member  
7 states.

## 8 ARTICLE XVI

### 9 WITHDRAWAL AND DISSOLUTION

#### 10 A. Withdrawal

11 1. Once effective, the compact shall continue in  
12 force and remain binding upon each and every  
13 member state; provided that a member state may  
14 withdraw from the compact specifically repealing  
15 the statute, which enacted the compact into law.

16 2. Withdrawal from this compact shall be by the  
17 enactment of a statute repealing the same, but  
18 shall not take effect until one (1) year after  
19 the effective date of such statute and until  
20 written notice of the withdrawal has been given  
21 by the withdrawing state to the Governor of each  
22 other member jurisdiction.

23 3. The withdrawing state shall immediately notify  
24 the chairperson of the Interstate Commission in  
25 writing upon the introduction of legislation  
26 repealing this compact in the withdrawing state.  
27 The Interstate Commission shall notify the other  
28 member states of the withdrawing state's intent  
29 to withdraw within sixty (60) days of its receipt  
30 thereof.

1           4. The withdrawing state is responsible for all  
2           assessments, obligations and liabilities incurred  
3           through the effective date of withdrawal,  
4           including obligations, the performance of which  
5           extend beyond the effective date of withdrawal.

6           5. Reinstatement following withdrawal of a member  
7           state shall occur upon the withdrawing state  
8           reenacting the compact or upon such later date as  
9           determined by the Interstate Commission.

10       B.   Dissolution of Compact

11           1. This compact shall dissolve effective upon the  
12           date of the withdrawal or default of the member  
13           state which reduces the membership in the compact  
14           to one (1) member state.

15           2. Upon the dissolution of this compact, the compact  
16           becomes null and void and shall be of no further  
17           force or effect, and the business and affairs of  
18           the Interstate Commission shall be concluded and  
19           surplus funds shall be distributed in accordance  
20           with the bylaws.

21                               ARTICLE XVII

22                               SEVERABILITY AND CONSTRUCTION

23       A.   The provisions of this compact shall be severable, and if  
24           any phrase, clause, sentence or provision is deemed  
25           unenforceable, the remaining provisions of the compact  
26           shall be enforceable.

27       B.   The provisions of this compact shall be liberally  
28           construed to effectuate its purposes.

29       C.   Nothing in this compact shall be construed to prohibit  
30           the applicability of other interstate compacts to which



1 the states are members.

2 ARTICLE XVIII

3 BINDING EFFECT OF COMPACT AND OTHER LAWS

4 A. Other Laws

5 1. Nothing herein prevents the enforcement of any  
6 other law of a member state that is not  
7 inconsistent with this compact.

8 2. All member states' laws conflicting with this  
9 compact are superseded to the extent of the  
10 conflict.

11 B. Binding Effect of the Compact

12 1. All lawful actions of the Interstate Commission,  
13 including all rules and bylaws promulgated by the  
14 Interstate Commission, are binding upon the  
15 member states.

16 2. All agreements between the Intrastate Commission  
17 and the member states are binding in accordance  
18 with their terms.

19 3. In the event any provision of this compact  
20 exceeds the constitutional limits imposed on the  
21 legislature of any member state, such provision  
22 shall be ineffective to the extent of the  
23 conflict with the constitutional provision in  
24 question in that member state.

25 Section 3. When and how compact becomes operative.

26 (a) General rule.--When the Governor executes the Interstate  
27 Compact on Educational Opportunity for Military Children on  
28 behalf of this State and files a verified copy thereof with the  
29 Secretary of the Commonwealth and when the compact is ratified  
30 by at least ten other states, then the compact shall become

operative and effective between this State and such other states. The Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this State and any other state ratifying the compact.

(b) Notice in Pennsylvania Bulletin.--The Secretary of the Commonwealth shall publish a notice in the Pennsylvania Bulletin when the conditions set forth in subsection (a) are satisfied and shall include in the notice the date on which the compact became effective and operative between this State and any other states in accordance with this act.

Section 4. State Council on Interstate Educational Opportunity for Military Children.

(a) Establishment.--Consistent with Article VIII of the Interstate Compact on Educational Opportunity for Military Children, there is hereby established the State Council on Interstate Educational Opportunity for Military Children. The council shall conduct all business pursuant to 65 Pa.C.S. Ch. 7 (relating to open meetings) and the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. The council shall consist of nine members, four of whom shall be appointed by the Governor. At least one member shall be the compact administrator. The President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall each appoint a member of the General Assembly to serve as a member of the council.

(b) Terms.--The term of a member of the council hereafter appointed, except to fill a vacancy, shall be four years and until a successor has been appointed, but in no event more than

1 90 days beyond the expiration of the appointed term. The term of  
2 a member of the council who is appointed by virtue of serving as  
3 a member of the General Assembly shall continue only as long as  
4 the individual remains in that office.

5 (c) Vacancy.--A vacancy occurring in an office of a member  
6 of the council for any reason shall be filled by the appointing  
7 authority for the remainder of the term.

8 Section 5. Appointment of administrator.

9 The compact administrator shall be appointed by the Governor  
10 and shall serve as a member of the State Council on Interstate  
11 Educational Opportunity for Military Children and shall serve on  
12 the Interstate Commission on Educational Opportunity for  
13 Military Children established pursuant to Article IX of the  
14 Interstate Compact on Educational Opportunity for Military  
15 Children.

16 Section 6. Compensation and expenses of administrator.

17 The compact administrator who represents this State under the  
18 Interstate Compact on Educational Opportunity for Military  
19 Children shall not be entitled to any additional compensation  
20 for his duties and responsibilities as compact administrator but  
21 shall be entitled to reimbursement for reasonable expenses  
22 actually incurred in connection with his duties and  
23 responsibilities as compact administrator in the same manner as  
24 for expenses incurred in connection with other duties and  
25 responsibilities of his office or employment.

26 Section 7. Effective date.

27 This act shall take effect immediately.